



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,227	06/19/2003	James H. Thomas	31633-1001	2054
5179 7590 03/24/2008				
PEACOCK MYERS, P.C. 201 THIRD STREET, N.W. SUITE 1340 ALBUQUERQUE, NM 87102				
EXAMINER				
CHAPMAN, JEANETTE E				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
03/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/601,227

**Applicant(s)**

THOMAS, JAMES H.

**Examiner**

Jeanette E. Chapman

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-134 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 8-10, 13, 14, 16, 19-42 and 44-106 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7, 11, 12, 15, 17, 18, 43 and 107 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/29/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-6, 8, 21-37, 44-48, 59-69, 76-101, 105-106, 108-134 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (5597005)

Thomas disclose a canopy structure including

- ❖ a plurality of post 58,
- ❖ a plurality of cables 64 supported by the post 58,
- ❖ a flexible cover 85 supported on the cables, a sleeve , figure 16, on the cover extending along an eave of the structure,
- ❖ an elongated rod 90 in the sleeve sufficiently stiff to normally extend in a substantially straight condition but capable of flexing to bow downwardly when heavy materials are on the cover, thereby allowing the materials to slide off of the cover with the rod thereafter resuming a substantially straight condition.
- ❖ A securement securing an intermediate portion of the rod to the cover; see figure 13
- ❖ A gap or opening in the sleeve allowing insertion of a rod into the sleeve, see figure 2 and accompanying text
- ❖ Parallel cover support cables 75 having end portions adjacent the eave

- ❖ The cover includes a plurality of seams 86 along which the cover support cables 75 extend
- ❖ Pipes 22 are located in the sleeve at adjacent seams
- ❖ The rod is secured to the cover at intermediate locations opposite the end portions of the rod; see figure 13 and accompanying text
- ❖ The heavy material is snow or ice
- ❖ A frame 64/20/22/24/26+
- ❖ a support on at least two sides see figure 2
- ❖ The frame is external and internal to the canopy
- ❖ regarding method claims:
  - the providing steps are shown
  - snow, ice and elements from inclement weather conditions are received on the roof; Thomas discloses a rod forming a chute contiguous with at least one sagging area and the chute provides a path for the load to discharge from the canopy; see column 4, lines 65 through column 5, line 6.; thus the discharging and the restoring method steps are shown.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 9, 10, 13-14, 16, 19, 23-42, 44-74, 102-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Frieder et al (2693195). Thomas lacks a pair of pipes in a sleeve receiving the rod at opposite end portions thereof. Frieder discloses a canopy structure. A portion of the hold down means in figure 7 includes a pair of pipes 38/50/52. Frieder discloses a load response assembly as recited in claims 23-25. The load response assembly comprises an eave construction near element 36. At least one receptacle 52 is disposed in said rod and sleeve. At least one receptacle 52 receives the rod 34 at opposite ends Shown in figures 1, and 6-7. The receptacle is a pipe. It would have been obvious to include the pipes to protect the sleeve as shown by Frieder.

Thomas discloses a rod forming a chute contiguous with at least one sagging area and the chute provides a path for the load to discharge from the canopy; see column 4, lines 65 through column 5, line 6. The frame is external and internal to the canopy

Claim 3-4, 7, 11-12, 15, 17-18, 43, 107 are allowable over the prior art of record.

Claim 20 is allowable over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JEANETTE CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3633

\*\*\*